

LABOUR DEPARTMENT

The 4th March, 1974

No. 1264-4Lab-74/6874.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s Endee Woollen and Silk Mills (P) Ltd., Faridabad :—

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, LABOUR COURT, ROHTAK

References No. 204, 194, 203 of 1970

between

THE WORKMEN AND THE MANAGEMENT OF M/S ENDEE WOOLLEN AND SILK MILLS (P) LTD., FARIDABAD.

Present.—Shri Bhim Singh Yadav for the workmen.

Shri S.L. Gupta for the management.

AWARD

This judgement will dispose of this and the connected reference Nos. 194 and 203 of 1970 between the management of M/s Endee Woollen and Silk Mills (P) Ltd., Faridabad and its workmen Sarvshri Bhuleshwar, Ram Payare, and Nand Lal which have been consolidated, there being common points involved in all the cases. The facts relevant for the judgement may shortly be stated as under :—

The management allegedly terminated the services of the above named workmen without any justification with effect from 7th June, 1970. Feeling aggrieved, they raised a demand for reinstatement and payment of back wages but without success. The matter was taken up for conciliation which also ended in failure.

On receipt of the failure report from the Conciliation Officer in each case, the Governor of Haryana referred the dispute for adjudication to this Court, in exercise of the powers conferred by clause (C) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 with the following terms of reference which is common in all the cases :—

“Whether the termination of services of the workman concerned was justified and in order ? If not, to what relief is he entitled ?”

Usual notices were given to the parties and they put in their respective written statements. The workmen reiterated their claim for reinstatement as earlier raised through the demand notices leading to the present references. The management contested their claims on the ground that they had proceeded on leave but had not reported for duty after the expiry of the leave and as such they were presumed to have abandoned their services of their own accord. The workmen pleaded that they had been taken ill. The management also questioned the validity of the reference. The following three issues were framed by the learned predecessor which are common in all the cases :—

- (1) Whether the reference is bad because the workmen never raised any dispute directly with the management ?
- (2) Whether the workmen did not report for duty after the expiry of their leave and therefore abandoned their services ?
- (3) Whether the workmen were ill and therefore could not resume duties after the expiry of their leave ? If so, to what effect ?

The management has examined Shri T.N. Kaul, Factory Manager who has proved documents Ex. M.W. 1/1 to M.W. 1/10. After producing this evidence, the management took still another plea that as a matter of fact all the workmen have settled their disputes and received payment of their full dues. It was directed that the alleged settlement be produced along with the payment vouchers. The workmen were also required to appear and admit or deny the above plea raised on behalf of the management. They have, however, elected not to appear for reasons best known to them and their authorised representative Shri Bhim Singh Yadav who had given the demand notice leading to the present reference has also not turned up. On the other hand, the management has produced the settlement Ex. M-1, M-2 vouchers of payment of Rs 204.15 to Shri Bhuleshwar Ex. M-3, M-4, payment of Rs 200.75 to Shri Ram Piara Ex. M-5, M-6 and payment of Rs 194.95 to Shri Nand Lal Ex. M-7, M-8 and M-9. Shri S.L. Gupta authorised representative of the management has sworn testimony to the genuineness of these documents which speak for themselves.

So, taking into consideration all the facts and the circumstances of the case brought on record and discussed above, I am fully satisfied that the workmen concerned have in fact settled their disputes with the management and received their dues in full and final settlement of their entire claims including the right of reinstatement

or re-employment. In the circumstances, they are not entitled to any other relief. The award in each case is made accordingly but without any order as to costs.

Dated, the 21st January, 1974.

O.P. SHARMA,

Presiding Officer,
Labour Court, Rohtak.

No. 207, dated the 31st January, 1974.

Forwarded four copies to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

Dated, the 21st January, 1974.

O. P. SHARMA,

Presiding Officer,
Labour Court, Rohtak.

The 6th March, 1974

No. 1494-4Lab-74/7096.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of M/s Kanodia Hosiery Mills, Jathari:—

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK

Application No. 2 of 1973 read with reference No. 116 of 1972

between

SHRI JAGE RAM AND THE MANAGEMENT OF M/S KANODIA HOSIERY MILLS,
JATHARI

Present.—

Shri Ram Kishan Sehgal, for the workman.

Shri N. L. Kanodia, for the management.

AWARD

This is an application for setting aside in *ex parte* award made in reference No. 116 of 1972 on 11th April, 1973 and published in the State Gazette on 1st May, 1973. The application was contested by the management but it is not necessary to go into the merits of the case as an amicable settlement has been arrived at. Statements of Shri N. L. Kanodia authorised representative of the management, Shri Jage Ram concerned workman and his authorised representative Shri Ram Kishan Sehgal have been recorded.

According to the settlement arrived at between the parties, the management has agreed to reinstate Shri Jage Ram on duty as a workman on Drying Boards in the field and his duty would be to take the boards from the machines to the field. The reinstatement would be in continuation of his previous service and the intervening period will be treated as leave without duty. He will be entitled to the same emoluments as he was drawing on the date of his termination of his services on 16th November, 1971 and also to other benefits which may be given to the workman hereafter provided he is eligible to the same. The management has further agreed to pay to him the arrears of wages, bonus, etc., as may be found due for the period before the termination of his services. It has further been agreed that Shri Jage Ram shall join his duty as described above within 3 days from today.

In view of the above, the *ex parte* award dated 11th May, 1973 is set aside and a fresh award is made as per the terms and conditions of the settlement arrived at between the parties detailed above. In the circumstances, there shall be no order as to costs.

Dated, the 5th February, 1974.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 410, dated 14th February, 1974

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 1498-4Lab-74/7098.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s Panipat Co-operative Distillery, Panipat.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 6 of 1973

between

SHRI BHOLA RAM AND THE MANAGEMENT OF M/S PANIPAT CO-OPERATIVE DISTILLERY,
PANIPAT

Present—

Shri Onkar Parshad, for the workman.

Shri Surinder Kaushal, for the management.

AWARD

Shri Bhola Ram concerned workman was in the service of M/s Panipat Co-operative Distillery, Panipat. The management allegedly terminated his services w.e.f. 16th September, 1972 without any notice or charge-sheet. He raised a demand for reinstatement but without success. He then gave the demand notice dated 22nd September, 1972 which forms part of the present reference whereupon conciliation proceedings were initiated which, however, ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana referred the dispute for adjudication to this court,—*vide* Order No. ID/KNL-B-72/10084-88, dated 12th March, 1973, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, with the following term of reference.

“Whether the termination of services of Shri Bhola Ram was justified and in order ? If not, to what relief is he entitled ?”

Usual notices were given to the parties. The workman did not file any statement of claim and relied merely on the demand notice, dated 22nd September, 1972 which forms part of the present reference, wherein it has been mentioned that he had been working continuously for 2 years but his services were terminated by the management without any justification on 16th September, 1972 simply for the reason that he had raised a demand for his confirmation through the Sugar Mill Mazdoor Sangh, Panipat.

The management controverted the above allegations of the workman and contested his claim. It was urged that he was not in the service of the management on 15th September, 1972 or on 16th September, 1972. He was only a casual worker engaged on work-charged basis and had last worked from 18th July, 1972 to 6th August, 1972 and never thereafter and as such the question of the termination of his services by the management with or without justification on 16th September, 1972 did not arise.

From the pleadings of the parties, the following 2 issues arose for determination in the case:—

1. Whether Shri Bhola Ram concerned workman was not in the service of the management on 16th September, 1972, and, therefore, no industrial dispute existed which could validly be referred for adjudication to this court ?
2. If issue No. 1 is not proved, whether the termination of services of Shri Bhola Ram was justified and in order ? If not, to what relief is he entitled ?

The management had examined one witness Shri Chander Parkash, Time-keeper, M.W.1, who has deposed that Shri Bhola Ram who had joined service on casual basis on 9th November, 1971 and had worked for intermittent periods had not worked in the Distillery in the month of September, 1972. According to him, he had last worked from 18th July, 1972 to 6th August, 1972 only and no demand notice had been received from him about this period nor had he ever raised any other dispute earlier. In cross-examination he has mentioned the intermittent periods for which Shri Bhola Ram worked i.e., 9th November, 1971 to 6th February, 1972, 14th February, 1972 to 15th April, 1972, 24th April, 1972 to 28th June, 1972 and finally from 18th July, 1972 to 6th August, 1972 for which days he had been paid of.

Shri Bhola Ram has made his own statement besides examining Shri Gian Chand, General Secretary, Sugar Mill Mazdoor Sangh, Panipat who has referred to a demand notice, dated 6th July, 1972 Ex.W.1 and annexure Ex. W. 2 filed in a similar case of Shri Lorik another workman in reference No. 7 of 1973. According to this workman he had joined service in the Distillery more than one year back and he was never told that his appointment was only on work-charged basis. In cross-examination he has stated that demand notice which forms part of the present reference is not thumb-marked by him nor had this notice been given under his instructions. He has further stated that he had never raised any demand for confirmation nor had he asked any one else to raise such demand.

Arguments have been addressed on both sides and I have given a very careful consideration to the facts on record. According to the statement of the workman concerned himself, the demand notice, dated 22nd September, 1972, which forms part of the present reference, is not thumb-marked by him nor was it given at his instance. It has been mentioned in the demand notice that the management had terminated his services w.e.f. 16th September, 1972 as he had raised a demand for confirmation through the Sugar Mill Mazdoor Sangh, Panipat. In his cross-examination, however, he has denied having ever raised a demand for confirmation or having asked anybody else to raise any such dispute. According to the showing of the workman, therefore, no industrial dispute existed between the parties which could validly be referred for adjudication to this court.

On merits also, Shri Bhola Ram concerned workman has no case to make out. He has not produced any appointment letter or attendance card to show that he was a regular employee. According to the statement of M.W.1 Shri Chander Parkash, Time-keeper he had been engaged for the first time on 9th April, 1971 on casual basis and had worked only for intermittent periods, as per details given above, having last worked from 18th July, 1972 to 6th August, 1972, i.e. for 19 days only. There is apparently no reason to disbelieve the testimony of M.W.1 which is supported by record especially when the workman has produced no reasonable rebuttal of the same. Being a casual worker and having worked for intermittent periods on work-charged basis he had manifestly no lien on any job. He had not worked even for a single day in the month of September, 1972 and that being so the question of the termination of his services by the management on 16th September, 1972 with or without any justification did not arise. The claim put forward by the workman is belied by his own evidence.

That disposes of both the issues involved in the case which are decided against the workman and in favour of the management holding that no industrial dispute existed between the parties which could validly be referred for adjudication to this court and Shri Bhola Ram being only a casual worker on work-charged basis and further being not in service on the day his services are alleged to have been terminated is not entitled to any relief by way of reinstatement or payment of back wages. The award is made accordingly but without any order as to costs.

Dated, the 8th February, 1974.

O.P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 407, dated 14th February, 1974.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 1495-4Lab-74/7100.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of M/s Ved Laxmi Flour Mills, Rohtak:—

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 186 of 1971

between

SHRI GIRDHARI LAL AND THE MANAGEMENT OF M/S VED LAXMI FLOUR MILLS,
ROHTAK

Present.—

Shri Sagar Ram Gupta, for the workman.
Shri D. C. Chadha, for the management.

AWARD

Shri Girdhari Lal was in the service of M/s Ved Laxmi Flour Mills, Rohtak as Manager. His services were terminated with effect from 1st April, 1971. He raised a demand for reinstatement but without success. The matter was taken up for conciliation which also ended in failure.

On receipt of the failure report, the Governor of Haryana referred the above dispute for adjudication to this court,—vide order No. ID/RK/236-A-71/32174-78, dated 3rd November, 1971, in exercise of the powers conferred by clause (c) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947, with the following term of reference.

“Whether the termination of services of Shri Girdhari Lal was justified and in order? If not, to what relief is he entitled?”

The parties put in their respective written statements. The management contested the claim of Shri Girdhari Lal contending *inter alia* that he was not a workman as defined under section 2(s) of the Act. The following preliminary issue was framed.

1. Whether Shri Girdhari Lal was serving as a Manager and was drawing a salary of more than Rs. 500/- and, therefore, he does not fall within the definition of workman?

The management had led some evidence. It is, however, not necessary to go into the merits of the case as an amicable settlement has been arrived at between the parties. Their statements have been recorded.

According to the settlement the management has agreed to pay Rs. 5,500 to Shri Girdhari Lal, in addition to the amount of bonus which had been remitted to him by Money Order but received back un-disbursed, within a period of 2 months from today in full and final settlement of his entire claims, the right of reinstatement or re-employment having been given up by him. The award is made accordingly but without any order as to costs.

Dated the 7th February, 1974.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 409, dated 14th February, 1974.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 1496-4 Lab-74/7102.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s. Panipat Cooperative Distillery, Panipat.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 7 of 1973.

between

SHRI LORIK AND THE MANAGEMENT OF M/S PANIPAT CO-OPERATIVE
DISTILLERY, PANIPAT.

Present :

Shri Onkar Parshad, for the workman.

Shri Surinder Kaushal, for the management.

AWARD

Shri Lorik concerned workman was in the service of M/s Panipat Co-operative Distillery, Panipat. The management allegedly terminated his services with effect from 16th September, 1972, without any notice or charge-sheet. He pressed for his reinstatement but without success. The matter was then taken up for conciliation which too ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 referred the dispute for adjudication to this court,—*vide* order No. ID/KNL/C-72/10090-94, dated 12th March, 1973, with the following term of reference.

“Whether the termination of services of Shri Lorik was justified and in order? If not, to what relief is he entitled?”

Usual notices were given to the parties. The workman did not file any statement of claim but relied on the demand notice dated 22nd September, 1972, which forms part of the present reference. According to the averments made in the said demand notice he had been working in the Distillery for 2 years continuously but his services had been terminated by the management because he had made a demand for his confirmation through the Sugar Mill Mazdoor Sangh, Panipat.

On the other hand, the management took up the plea that this workman was only a casual worker having been last employed on 1st September, 1972, and as such had no lien on any job, having worked only for 17 days, before the termination of his services on 18th September, 1972, and not on 16th September, 1972, as alleged by him.

It has further been contended that the demand the subject matter of the present reference was not properly raised and as such no industrial dispute existed within the meaning of the law which could validly be referred for adjudication to this Court. The following 2 issues arose for determination in the case.

1. Whether the demand was not properly raised by the concerned workman and, therefore, the reference is not valid?
2. Whether the termination of services of Shri Lorik was justified and in order? If not, to what relief is he entitled?

The management has examined one witness, its Time-keeper Shri Chander Parkash, who has deposed that Shri Lorik a casual worker was on duty on 16th September, 1972, and he collected his dues on 17th September, 1972 and excepting the demand notice dated 22nd September 1972, on other demand was received from him direct or through his Union. In cross-examination this witness has mentioned some earlier intermittent periods when this workman had been on duty in the Distillery and had been paid off for the days he actually worked on casual basis.

The workman has himself come into the witness-box besides examining Shri Gian Chand, General Secretary, Sugar Mill Mazdoor Sangh, Panipat as W.W. 2. According to him he had been a regular worker since 1971, and was never given to understand by the Distillery Manager who had appointed him that his appointment was on work-charged basis. In cross-examination he has stated that the demand notice which forms part of the present reference was not given at his instance nor is it signed by him, but he had asked one Shri Karan Singh to raise the demand. Shri Gian Chand W.W.2 has deposed that the demand notice Ex. W. 1 was given by his union under his signatures along with the annexure Ex.W.2 which includes the name of Shri Lorik the present workman.

Arguments have been addressed on both sides and I have given due consideration to the facts on record. As already pointed out, the present reference has arisen out of the alleged termination of the services of Shri Lorik workman concerned on the basis of the demand notice dated 22nd September, 1972, which forms part of the present reference. Strongly enough the workman has himself denied having given this demand notice and also his signatures on it. This demand notice does not purport to have been given by the Union nor is it signed by any office bearer of the Union. The Union has placed reliance upon another demand notice dated 6th July, 1972, Ex. W. 1 and the annexure Ex. W.2. The present dispute is, however, not covered by that demand notice which, in fact, relates to several other demands like increase of 15 per cent in the wages, confirmation of the workmen, construction of cycle stand and designation and gradation of some workmen other than the present workmen. The present reference has not been made by the State Government on the basis of that demand notice and as such it is irrelevant for the purpose of the determination of the matter in issue in the instant case.

That disposes of issue No. 1 which is decided against the workman concerned holding that according to his own showing the demand in question was not properly raised and as such there was no industrial dispute between him and the management which could validly be referred for adjudication to this court.

Issue No. 2.—

On merits also the workman has no case to make out. According to the records of the management, as per the statement of its Time-keeper Shri Chander Parkash M.W. 1, this workman had been working in the Distillery as a casual worker on work-charged basis for some intermittent periods and he had last worked from 1st September, 1972, till 17th September, 1972, and that he had all alone been paid off for the days he actually worked. There is no reason to disbelieve his statement supported by record. The workman has produced no reasonable rebuttal of the same. His vague and oral statement that he had continuously worked for 2 years or so in the absence of cogent and convincing evidence can not be held that the management had terminated his services and without any justification when he had no lien on any job, being a work-charged employee only. The issue No. 2 is accordingly decided against him.

In view of my above findings, the issue involved in the case Shri Lorik the workman concerned is not entitled to any relief by way of reinstatement or payment of back wages. The award is made accordingly but without any order as to costs.

O. P. SHARMA,

Dated the 8th February, 1974.

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No 408, dated the 14th February, 1974

Forwarded (four copies) to the Secretary to, Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

S. N. BHANOT,
Commissioner for Labour and Employment & Secy.

FOREST DEPARTMENT
The 13/14th March, 1974

No. 141-Ft-4-74/4002.—In Haryana Government, Forest Department, notification No. 3896-Ft-4-73/14947, dated the 4th September, 1973, the words "and Canal area as well as other strips in Delhi Administration, belonging to Haryana State", shall be added after the words "District of Rohtak and Sonapat" against serial No. 4 North Circle, under fourth column.

V. P. JOHAR, Secy.

The 12/13th March, 1974

No. 1020-Ft-2/74/3936.—The result of the departmental examination of the Wild Life and Games Preservation Officers/Officials of the Haryana State held on 11th February, 1974, is notified as under :—

Serial No.	Name of the Officer/Official	Marks obtained in
1	Shri Vir Naresh Kumar, Wild Life Inspector (Non-Gazetted)	Departmental Accounts and Rules—54/100 (Pass)

KIRAN AGGARWAL,
Joint Secretary to Government, Haryana,
Wild Life and Games Preservation Department.